

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

|                                    |   |                                    |
|------------------------------------|---|------------------------------------|
| BILL W. KING, JR., and SHEET METAL | ) |                                    |
| WORKERS NATIONAL HEALTH FUND,      | ) |                                    |
|                                    | ) |                                    |
| Plaintiffs,                        | ) | Case No. 3:22-cv-00906             |
|                                    | ) |                                    |
| v.                                 | ) | Judge Eli J. Richardson            |
|                                    | ) | Magistrate Judge Barbara D. Holmes |
| ERIC HERNANDEZ,                    | ) |                                    |
|                                    | ) |                                    |
| Defendant.                         | ) |                                    |

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**ENTRY OF DEFAULT**

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Pending is Plaintiffs' Request for Entry of Default against Defendant Eric Hernandez pursuant to Federal Rule of Civil Procedure 55(a). (Doc. No. 11). For the following reasons, the Plaintiffs' Motion is **GRANTED**.

On November 8, 2022, Plaintiffs filed their Complaint against Defendant. (Doc. No. 1). Summons was issued as to Hernandez on November 9, 2022. (Doc. No. 4). On November 17, 2022, Plaintiffs returned the Summons and a Proof of Service declaration executed by process server, Kelly Kerr. (Doc. No. 7). Kerr declares that Hernandez was personally served with the Summons and Complaint on November 11, 2022. (Doc. No. 7 at PageID #15). Plaintiffs filed the pending Request for Entry of Default on February 14, 2023. (Doc. No. 11).

Pursuant to Local Rule 55.01,

Motions for entry of default under Fed. R. Civ. P. 55(a) must be accompanied by an unsworn declaration under penalty of perjury under 28 U.S.C. § 1746 verifying, among other things, (i) proof of service; (ii) the opposing party's failure to plead or otherwise defend; (iii) if the opposing party is an individual, that the opposing party is not a minor or incompetent person; and (iv) if the opposing

party is an individual, that the opposing party is not in the military service, as required by 50 U.S.C. § 3931(b)(1). Evidence from the Defense Manpower Data Center, or other reliable source, confirming that the opposing party is not in the military service must be appended to the unsworn declaration.

L.R. 55.01. In support of its Motion, Plaintiffs rely upon the Declaration of Jan Jennings, (Doc. No. 12), and a second Declaration by Kelly Kerr, (Doc. No. 7-1).

As reflected in the record as a whole and as confirmed by Jennings and Kerr in their declarations, Hernandez was personally served with process on November 11, 2022. (Doc. Nos. 12 and 7). Further, Kerr declares that Hernandez is not a minor, incompetent, or an active member of the military. (Doc. No. 7-1). To date, Hernandez has not entered an appearance or otherwise defended this action.

Plaintiffs have satisfied their obligations under Rule 55(a) and Local Rule 55.01. “When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default.” Fed. R. Civ. P. 55(a). Accordingly, the Plaintiffs’ Request for Entry of Default against Eric Hernandez, (Doc. No. 11), is **GRANTED**.

s/ Lynda M. Hill  
Lynda Motes Hill  
Clerk of Court